

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service.	Rulemaking 95-04-043 (Filed April 26, 1995)
Order Instituting Investigation on the Commission's Own Motion into Competition for Local Exchange Service.	Investigation 95-04-044 (Filed April 26, 1995)

**SEPARATE STATEMENT OF VERIZON CALIFORNIA INC. (U 1002 C) ON THE
LOOP AND TRANSPORT WORKSHOP STATUS REPORT**

INTRODUCTION

Verizon California Inc. participated in the loop and transport workshop presided over by Commission staff on December 4, 2003. Verizon submitted testimony on transport routes on November 20, 2003. Verizon's testimony was limited to transport, that is, did not include loop testimony. Verizon's transport data was based upon internally verified fiber-based collocation information and other company data and publicly available information. The routes identified were based on the assumption that if a CLEC has collocated in Office A and in Office Z, the CLEC has transport between those offices. Verizon also assumed that the CLEC had dark fiber in those facilities. Since the filing of the November 20th testimony, Verizon has received some responses to the CPUC's discovery, and those discovery responses and additional discovery will be sufficient to allow Verizon to verify its analysis and to amend its testimony to include

routes identified in response to discovery received after November 20. Verizon may also file an impairment analysis for loop locations once it has had the opportunity to review outstanding discovery.

There are three main points that became evident at the workshop and which are explained herein.

I.

THE COMMISSION SHOULD AUTHORIZE SUPPLEMENTATION OF VERIZON'S LOOP AND TRANSPORT TESTIMONY

ALJ Pulsifer's October 8, 2003 ruling required the submission of loop and transport testimony by November 20, 2003. The scheduling of the date to submit testimony undoubtedly took into account that discovery would be produced "promptly" in response to the Commission's "standardized template of data requests." Indeed, Judge Pulsifer ruled as follows:

In view of the broad scope of entities from whom data must be collected in connection with the analysis of triggers, the Commission staff will facilitate discovery workshops to reach consensus on a standardized template of data requests. Coordination issues include reaching consensus on the categories of data that need to be collected, and identifying the entities from whom specific data must be collected. Coordination and consolidation will avoid duplication of requests and responses, and will promote uniformity. [¶] The Commission shall prepare a transmittal letter under the signature of Commissioner Kennedy to be sent to all carriers *from whom trigger data must be collected, and directing the **prompt** production of the requested data.* . . . The Commission staff shall also facilitate procedures for the prompt transmittal of data responses to designated active parties in the proceeding.

See Assigned Commissioner's and Administrative Law Judge's Ruling on Scope and Schedule for Nine-Month FCC Triennial Review Proceeding, R.95-04-043 at 9 (emphasis added).

The discovery workshop was successful and the participants proposed a standardized template of data requests. The Commission rejected that template and on October 22, 2003, Commissioner Kennedy issued a substitute template, with a response date of 20 days later or November 12, 2003. The response was to be sent to Commission staff in triplicate and staff would release responses to the parties after processing. Informally, the CLECs agreed to appoint one CLEC to receive the responses and distribute to other CLECs. SBC agreed to play that role for ILECs. Some parties timely responded to the Commission template data request, others responded late and yet others have not responded at all.

Discovery responses worked their way through this process—production of responses to the Commission, processing by the Commission to ensure protection of confidentiality, production of Commission-processed data request responses to the carrier “representatives,” copying of hard copy responses by the representatives and finally production from the ILEC representative to Verizon. Verizon finally received the first batch of responses—of those that timely responded—from SBC on November 25, 2003, well after November 20, 2003, the date Verizon’s loop and transport testimony was filed.

The testimony that Verizon filed on November 20, 2003 was therefore necessarily incomplete. While the goal of Judge Pulsifer’s October 8 discovery rulings was to have discovery responses in the ILECs’ hands with sufficient time prior to November 20, 2003 so that the ILECs could actually use the responses to provide meaningful loop and transport testimony, neither Verizon nor SBC could do so in light of not having the data responses.

Verizon provided testimony on November 20 that was based on (a) publicly available information on carriers that offer transport services to other carriers (i.e., at wholesale), (b) internal information about which carriers collocate at Verizon wire centers, and (c) assumptions about the capacities at which transport typically operate, drawn from well known industry practices about how transport systems function. Now that Verizon has (most) responses to the Commission's data request, it should be permitted to supplement its testimony by (i) verifying the transport routes identified in its opening testimony and (ii) adding transport routes and loops that, based on the data request responses, meet the FCC's triggers.

Certain CLECs oppose any supplement, essentially taking the position that – even though Verizon did not receive responses to data requests in time to incorporate it into its initial testimony — Verizon missed its chance to make its case on loops and transport. Such a result would be shockingly unfair given that, through no fault of its own, Verizon did not have the CLECs' responses to the Commission's discovery at the time it filed its initial case. The Commission should issue a new ruling authorizing Verizon to supplement its loop and transport locations, including addressing new routes or customer locations if the data so indicates. Verizon has now received data from most carriers, although a few still have not responded.

II.

THE COMMISSION SHOULD AMEND ITS LOOP AND TRANSPORT SCHEDULE

As to those who have not responded adequately, Verizon will need to obtain full responses and/or issue follow-up discovery requests, which it is in the process of doing. Verizon will also need an opportunity to analyze all the data received. Verizon therefore

proposes to provide supplemental loop and transport testimony by January 12, 2004 as to those who have responded adequately.

In order to afford the CLECs an opportunity to provide a meaningful reply, the current schedule should be modified. Verizon proposes the following schedule:

Date to Supplement:	January 12, 2004
CLEC Reply Testimony:	January 30, 2004
Hearings on Loop and Transport Case:	February 16, 2004

This schedule is predicated on full responses to discovery by December 31, 2003, giving the ILEC's approximately ten days to analyze and incorporate the discovery responses.

During the workshops, some CLECs suggested that this request should come to the ALJ in the form of a motion. A motion is not necessary because the parties have already stated their reasons in favor and against allowing supplements during the workshop and the workshop transcript has memorialized the parties' positions, and the parties have an opportunity to provide a separate statement to the workshop report in which they can again once again raise their arguments.

III.

THE COMMISSION SHOULD COMPEL FULL AND COMPLETE RESPONSES FROM CARRIERS THAT HAVE NOT RESPONDED AND THOSE THAT HAVE NOT RESPONDED ADEQUATELY

Staff requested an analysis of the discovery responses and asked that Verizon prioritize the discovery it still needs. Verizon has analyzed the responses from the various carriers that Verizon believes operate in the Verizon footprint and the following is its analysis and prioritization.

A. Verizon has identified as the high priority switching issues the following:

1. Verizon has received no responses at all from Telscape Communications, ACI Corp., Firstworld Comm.,¹ or RCN. Telscape, ACI and Firstworld appear in Verizon's list of CLECs leasing stand-alone UNE loops in California and RCN has operational switches in Los Angeles and San Francisco.
2. In response to the questions of whether its switch serves business customers locations with 4 or fewer lines (Column T) or 18 or fewer line (Column U), MCI and XO claim that such information is "not relevant" or "not available, " respectively. Responses to these questions are essential for determining whether MCI and XO's switches are serving the mass market, and—significantly—that information has been provided by all other respondents.
3. Verizon is concerned that lists of ILEC CLLI codes served by CLEC switches that were provided by AT&T and Cox are not complete. AT&T lists very few of the wire centers from which it leases stand-alone UNE loops from Verizon, and Cox does not list any Verizon wire centers at all. These responses appear to be incomplete.
4. Level Three's responses only contain general descriptions of the communities served rather than specific ILEC CLLI codes.

B. Verizon has identified as the high priority loop issues the following:

1. Verizon has received no responses at all from Telscape Communications, ACI Corp., Firstworld Comm., or RCN. Telscape, ACI and Firstworld appear in Verizon's list of CLECs leasing stand-alone UNE loops in California and RCN has operational switches in Los Angeles and San Francisco.
2. MCI did not provide the customer serving CLLI code based upon its claim that the information is not kept in the manner requested, and Verizon needs that information to determine which of the customer locations identified in the spreadsheet are in Verizon's territory. MCI indicated that it was still in the process of searching for information responsive to the questions in columns R, S and U. Verizon has begun a meet and confer process with MCI and will attempt to obtain a firm date for full response to these columns.
3. Cox objected to answering whether it had access to the entire customer location were it has deployed facilities. This is important if Cox is a wholesale provider, but it is not clear whether it is or not. Cox need to answer whether if it offers its DS-1 and DS-3 loop facilities to other carrier on a wholesale basis.

¹ Verizon has an ICA with Firstworld (f/k/a Spectranet), but apparently Firstworld may have had its CPCN revoked by the PUC. That may be the reason it has not responded.

4. Point-to-Point and TelePacific did not provide CLLIs.

C. Verizon has identified as the high priority transport issues the following:

1. AT&T and MCI provided deficient responses: they did not identify their fiber rings (i.e., the routes that are at the very heart of the FCC's triggers), were not clear on which services they provide (which is critical to determining whether OCn-level services are subdivided into DS-1 or DS-3 services), were not clear on whether their self-provisioned transport has spare fibers (i.e., dark fibers), and were not clear on whether they provide or offer to provide transport on a wholesale basis. Verizon is in the process of meeting and conferring with both AT&T and MCI with regard to these deficiencies. Verizon has not been able to achieve consensus with AT&T on the identification of transport routes, but has agreed to offer clarifying questions on the Commission's discovery. Because of these deficiencies in AT&T's and MCI's responses to the Commission's discovery Verizon has no choice but to serve its own discovery requests.
2. Time Warner's responses indicate it has no dark fiber in any of its transport facilities. That response is hard to credit and begs the question of what definition Time Warner gave to the term "dark fiber." Verizon will follow up with Time Warner to get complete responses to the Commission's discovery, as well as to serve its own discovery.
3. Like AT&T and MCI, XO has failed to identify the terminating ILEC wire center (column R), nor has XO indicated (as did Sprint) that all of its fiber can reach all of the originating ILEC wire centers because it has deployed a fiber ring. XO also appears to be claiming, implausibly, that all of its own/leased transport facilities operate only at an OC48 level and are not channelized at a DS1 and DS3 level, and that none of its fiber is lit (i.e., all of its fiber is dark fiber). Once again, Verizon will raise these concerns about the deficiencies in XO's responses to the Commission's discovery directly with XO, as well as serving its own discovery requests.
4. SCE has not provided a response on switching. On transport, SCE did not provide any information on the capacity of its transport routes.

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Respectfully submitted,

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